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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/753,067	01/06/2004	Noel Lee	P1566	3424

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EXAMINER	
MONIKANG, GEORGE C	

ART UNIT	PAPER NUMBER
2615	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/753,067

Applicant(s)

LEE ET AL.

Examiner

George C. Monikang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 December 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 9/2/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1 & 18 (Application No. 10/753,067, hereinafter referred to as '067) are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of patent No. 7,130,432 B2 (Hereinafter referred to as '432). Although the conflicting claims are not identical, they are not patentably distinct from each other.

The '067 claims 1 & 18 are broader recitations of the same invention claimed in '432 claim 1. Therefore, '432 claim 1 is encompassed by '067 claims 1 & 18. It is critical that patents issuing from these applications be commonly

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owned to avoid potential licensees from owing license fees to two different parties.

Claims 9 & 16 (Application No. 10/753,067, hereinafter referred to as '067) are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 8 of patent No. 7,130,432 B2 (Hereinafter referred to as '432). Although the conflicting claims are not identical, they are not patentably distinct from each other.

The '067 claims 9 & 16 are broader recitations of the same invention claimed in '432 claim 8. Therefore, '432 claim 8 is encompassed by '067 claims 9 & 16. It is critical that patents issuing from these applications be commonly owned to avoid potential licensees from owing license fees to two different parties.

Claims 11-12 & 17 (Application No. 10/753,067, hereinafter referred to as '067) are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 9 of patent No. 7,130,432 B2 (Hereinafter referred to as '432). Although the conflicting claims are not identical, they are not patentably distinct from each other.

The '067 claims 11-12 & 17 are broader recitations of the same invention claimed in '432 claim 9. Therefore, '432 claim 9 is encompassed by '067 claims 11-12 & 17. It is critical that patents issuing from these applications be commonly

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owned to avoid potential licensees from owing license fees to two different parties.

Claim 15 (Application No. 10/753,067, hereinafter referred to as '067) is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 6 & 12-14 of patent No. 7,130,432 B2 (Hereinafter referred to as '432). Although the conflicting claims are not identical, they are not patentably distinct from each other.

The '067 claim 15 is a broader recitation of the same invention claimed in '432 claims 6 & 12-14. Therefore, '432 claims 6 & 12-14 are encompassed by '067 claim 15. It is critical that patents issuing from these applications be commonly owned to avoid potential licensees from owing license fees to two different parties.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 11, 13-14 & 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Householder, US Patent 4,953,223.

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Re Claim 11, Householder discloses a speaker mounting system comprising: a rotating base stand (col. 5, lines 12-17); a shaft speaker unit comprising at least one audio speaker (figs 1 & 2); a ball bearing comprising an inner ring (fig. 4: 65; col. 4, lines 18-25); a shaft which mechanically cooperates with the shaft speaker unit (figs 1 & 2); and a ring which mechanically cooperates with the shaft and mates with a ball bearing inner ring within said ball bearing, whereby mechanical cooperation is effected (fig. 4: 65; col. 4, lines 18-25).

Re Claim 13, Householder discloses a speaker mounting system in accordance with claim 11, wherein said ring mechanical cooperation includes rotation about the shaft (fig. 4: 65; col. 4, lines 18-25; col. 5, lines 12-17).

Re Claim 14, Householder discloses a speaker mounting system in accordance with claim 11, wherein the shaft speaker unit includes at least one planar speaker (fig. 4: 36).

Claim 17 has been analyzed and rejected according to claim 11.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1-3, 7-8, 10 & 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Householder, US Patent 4,953,223, in view of Lowry et al, US Patent Pub. 2004/0262470 A1.

Re Claim 1, Householder discloses a speaker mounting system comprising: a surface mounting bracket (figs 1 & 2: 72 & 73); a speaker unit comprising at least one audio speaker (figs 1 & 2: 22-24) but fails disclose including at least one male attachment mount; a shaped surface defining a plurality of angularly spaced apart female attachment grooves, said plurality of angularly spaced apart female attachment grooves being adapted for removably engaging said at least one male attachment mount. However, Lowry et al does (fig. 18-21d).

Taking the combined teachings of Householder and Lowry et al as a whole, one skilled in the art would have found it obvious to modify the speaker mounting system comprising: a surface mounting bracket (figs 1 & 2: 72 & 73); a speaker unit comprising at least one audio speaker (figs 1 & 2: 22-24) of Householder with including at least one male attachment mount; a shaped

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surface defining a plurality of angularly spaced apart female attachment grooves, said plurality of angularly spaced apart female attachment grooves being adapted for removably engaging said at least one male attachment mount as taught in Lowry et al (fig. 18-21d) to provide the speaker mounting bracket with more flexibility.

The combined teachings of Householder and Lowry et al also fail to disclose a lightpipe disposed in said shaped surface. Official notice is taken that both the concept and advantages of providing a lightpipe is well known in the art. It would have been obvious to use a lightpipe since it is commonly used for the transfer of digital audio.

Re Claim 2, the combined teachings of Householder and Lowry et al disclose a speaker mounting system in accordance with claim 1, wherein each said at least one male attachment mount is a T-mount (Lowry et al, fig. 21d: 365a).

Re Claim 3, the combined teachings of Householder and Lowry et al disclose a speaker mounting system in accordance with claim 1, wherein said plurality of angularly spaced apart female attachment grooves are formed on said shaped surface and wherein said shaped surface is semi-circular (Lowry et al, fig. 21d: 320).

Re Claim 7, the combined teachings of Householder and Lowry et al disclose a speaker mounting system in accordance with claim 1, wherein said lightpipe illuminates a surface proximal to said speaker unit (fig. 4: 44; light fixture could be a light pipe).

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Re Claim 8, the combined teachings of Householder and Lowry et al disclose a speaker mounting system in accordance with claim 1, wherein said surface mounting bracket further comprises a bracket connecting surface being mechanically connected at an angle θ relative a bracket arm, and wherein the angle θ is adapted to provide said speaker unit pointing angle adjustment (Householder, fig. 1).

Re Claim 10, the combined teachings of Householder and Lowry et al disclose a speaker mounting system in accordance with claim 1, wherein said semi-circular shaped surface further comprises an angle marking system being adapted to store a location for at least one audio speaker (Lowry et al, fig. 18-21d), and wherein the at least one audio speaker includes at least one column of spaced apart speakers comprising planar speakers (Householder, figs. 1 & 2).

Claim 18 has been analyzed and rejected according to claim 1.

Claim 19 has been analyzed and rejected according to claim 2.

4. Claims 5 & 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Householder, US Patent 4,953,223, in view of Lowry et al, US Patent Pub. 2004/0262470 A1, and further in view of Schacht, US Patent 4,023,034.

Re Claim 5, the combined teachings of Householder and Lowry et al disclose a speaker mounting system in accordance with claim 1, but fails to disclose wherein the lightpipe is a tube comprising an acrylic material. However, Schacht does (col. 2, lines 11-20).

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Taking the combined teachings of Householder, Lowry et al and Schacht as a whole, one skilled in the art would have found it obvious to modify the speaker mounting system of Householder and Lowry et al with wherein the lightpipe is a tube comprising an acrylic material as taught in Schacht (col. 2, lines 11-20) so that the lightpipe glass could be stronger.

Claim 20 has been analyzed and rejected according to claims 1 & 5.

5. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Householder, US Patent 4,953,223, in view of Lowry et al, US Patent Pub. 2004/0262470 A1, and further in view of Dayan, US Patent 6,765,496 B2.

Re Claim 6, the combined teachings of Householder and Lowry et al disclose a speaker mounting system in accordance with claim 1, wherein the lightpipe has a first end and a second end, but fails to disclose wherein at least one from the group consisting of said first end and said second end are illuminated by a light proportional to the intensity of an audio level. However, Dayan does (abstract).

Taking the combined teachings of Householder, Lowry et al and Dayan as a whole, one skilled in the art would have found it obvious to modify the speaker mounting system in accordance with claim 1, wherein the lightpipe has a first end and a second end of Householder and Lowry et al with wherein at least one from the group consisting of said first end and said second end are illuminated by a light proportional to the intensity of an audio level as taught in Dayan (abstract) so that the mounting system could be used for entertainment purposes.

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The combined teachings of Householder, Lowry et al and Dayan also fail to disclose a LED. Official notice is taken that both the concept and advantages of providing a LED is well known in the art. It would have been obvious to use a LED since it is commonly used for illumination effects.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Householder, US Patent 4,953,223, in view of Lowry et al, US Patent Pub. 2004/0262470 A1, and further in view of Ferren, US Patent 5,946,401.

Re Claim 9, the combined teachings of Householder and Lowry et al disclose a speaker mounting system in accordance with claim 7, but fails to disclose wherein said surface mounting bracket, said bracket arm, and said at least one male attachment mount comprise an extruded aluminum material. However, Ferren does (col. 3, lines 35-44).

Taking the combined teachings of Householder, Lowry et al and Ferren as a whole, one skilled in the art would have found it obvious to modify the speaker mounting system of Householder and Lowry et al with wherein said surface mounting bracket, said bracket arm, and said at least one male attachment mount comprise an extruded aluminum material as taught in Ferren (col. 3, lines 35-44) so the speaker mounting system could be firm.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Householder, US Patent 4,953,223, in view of Banner, US Patent. 3,721,007.

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Re Claim 12, Householder discloses a speaker mounting system in accordance with claim 11, but fails to disclose wherein said rotating base stand comprises angular markings. However, Banner does (abstract).

Taking the combined teachings of Householder and Banner as a whole, one skilled in the art would have found it obvious to modify the speaker mounting system of Householder with wherein said rotating base stand comprises angular markings as taught in Banner (abstract) so that the user could know how to adjust the speaker system.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Householder, US Patent 4,953,223, in view of Porzilli et al, US Patent. 6,628,793 B1.

Re Claim 15, Householder discloses a speaker mounting system in accordance with claim 11, but fails to disclose wherein the shaft speaker unit includes at least two columns forming a linear array of speakers selected from a group consisting of tweeter drivers and midrange drivers. However, Porzilli et al does (fig. 2: 24-26 & 28-30; col. 3, lines 4-7).

Taking the combined teachings of Householder and Porzilli et al as a whole, one skilled in the art would have found it obvious to modify the speaker mounting system of Householder with wherein the shaft speaker unit includes at least two columns forming a linear array of speakers selected from a group consisting of tweeter drivers and midrange drivers as taught in Porzilli et al (fig. 2:

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24-26 & 28-30; col. 3, lines 4-7) to provide a better quality factor and less crossover.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Householder, US Patent 4,953,223, in view of Ferren, US Patent 5,946,401.

Re Claim 16, Householder discloses a speaker mounting system in accordance with claim 11, but fails to disclose wherein the surface mounting bracket, the bracket arm, and the at least one male attachment mount comprise an extruded aluminum material. However, Ferren does (col. 3, lines 35-44).

Taking the combined teachings of Householder and Ferren as a whole, one skilled in the art would have found it obvious to modify the speaker mounting system of Householder with wherein the surface mounting bracket, the bracket arm, and the at least one male attachment mount comprise an extruded aluminum material as taught in Ferren (col. 3, lines 35-44) so the speaker mounting system could be firm.

Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George C. Monikang whose telephone number is 571-270-1190. The examiner can normally be reached on M-F. alt Fri. Off 7:30am-5:00pm (est).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chin Vivian can be reached on 571-272-7848. The fax


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phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

George Monikang

6/10/2007



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